



Attachment: Outline of draft scoping letter to DWR on BDCP

DRAFT OUTLINE

To: Mr. Mark Cowin, Director
Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

Subject: Supplemental Scoping Comments on the February 13, 2009, Revised Notice of Preparation of a Draft Environmental Impact Report and Environmental Impact Statement for the Bay Delta Conservation Plan

1.	Provide an update on 2010 BDCP progress to date and next steps (including reference to the Resources Agency Issues for Discussion document, recent principals meetings, and revised schedule). Provide additional clarification of DSC's role as a responsible agency under CEQA relative to BDCP and DSC's potential appellate role.
2.	Provide a brief summary of key unresolved issues that have been identified to date (reference to updated issues matrix prepared by ARCADIS). Specifically, provide a response to each of the eight issues that were raised in the June 28, 2010, scoping comments: 1) BDCP must further the Co-Equal Goals to satisfactorily address the statutory criteria for CEQA review; 2) The project purpose and range of reasonable alternatives analyzed in the BDCP EIR must reflect the Co-Equal Goals; 3) The BDCP EIR must satisfactorily address the criteria for CEQA review specified in the Delta Reform Act; 4) Projects included in the BDCP to further the Co-Equal Goals must be implemented in a balanced manner; 5) BDCP must be structured as a robust NCCP and HCP; 6) BDCP must include an effective operation decision-making process; 7) BDCP must take into account the flow criteria and quantifiable biological objectives developed by the SWRCB and/or the CDFG; and 8) Independent scientific review of BDCP at several key, upcoming stages.



3.	Discuss larger policy issues for BDCP to address as compared to the need for additional technical information for existing ongoing areas of evaluation. Several key unresolved issues relate to BDCP's acknowledgment and direct compliance with recently adopted Delta Reform Act policy requirements (i.e., project purpose statement demonstrating assurance of the "balancing" of the co-equal goals; reducing reliance on the Delta for water exports; application of the SWRCB flow criteria; and planning and funding assurances for conveyance facility elements vs. planning and funding assurances for ecosystem restoration elements)
4.	Consider the need for revisions and updates to the BDCP purpose statement and refinement of BDCP specific goals and objectives.
5.	Provide additional evaluation and consideration of how BDCP will address the Delta Reform Act Co-Equal Goals including a need to provide improved assurances to clearly demonstrate the BDCP's balance in meeting the Co-Equal Goals. The following initial criteria (5-a, 5-b) provide an example mechanism for doing so:
5.-a	<p>Clarification of Water Delivery/Export Objectives</p> <ul style="list-style-type: none"> 1) definition of reliability 2) minimum flows/export requirement 3) description of a transparent, real-time operations/decision-making process 4) flexible adaptive range 5) funding structure and assurances
5.-b	<p>Species Recovery, Restoration/Habitat Protection Objectives</p> <ul style="list-style-type: none"> 1) clear measurable objectives 2) robust adaptive management program 3) species recovery expectations



	4) functional habitat expectations 5) funding structure and assurances
6.	Inclusion of BDCP in the Delta Plan requires that BDCP meet certain specified conditions (e.g., comprehensive criteria for CEQA review and criteria to satisfy the NCCPA requirements).
7.	BDCP will need to demonstrate compliance with Water Code Section 85320(b) requirements.
8.	Funding – HCPs cannot be approved without identification of secured funding sources for proposed activities. HCPs must ensure that there is an adequate funding stream and specify the sources of funding available to implement the HCP's steps to mitigate impacts to its covered species. Where perpetual funding is required to implement mitigation measures, the HCP must establish programs or mechanisms to generate those funds. An applicant for a permit cannot rely on the speculative future actions of others to fund activities related to an HCP. The delay in the Water Bond vote poses a serious challenge to BDCP. The allocation of funding among beneficiaries also needs to be more clearly identified.